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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,111	03/06/2007	Rolf Neumann	PHDE030400US	2170

38107 7590 12/04/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
595 MINER ROAD
CLEVELAND, OH 44143

EXAMINER	
RAJAN, KAI	

ART UNIT	PAPER NUMBER
3769	

MAIL DATE	DELIVERY MODE
12/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/596,111	NEUMANN, ROLF	
	Examiner	Art Unit	
	KAI RAJAN	3769	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 August 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 - 20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 - 20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Examiner acknowledges the amendment filed August 29, 2008.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 – 13, 15, 16, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Mortara et al. U.S. Patent No. 5,704,351.

1. A medical measuring system comprising:

a data device including a display screen for displaying at least one of medical measurement values and graphs (Figure 1 item 16);

at least one mobile measuring apparatus which communicates wirelessly with the data device via a wireless communication signal, the mobile measuring apparatus including at least one sensor for generating a measuring signal indicative of physiological data of a patient, the sensor communicating the measuring signal to the mobile measuring apparatus and the mobile measuring apparatus communicating the physiological data to the data device via the wireless communication signal (Figure 1 item 10, column 4 lines 66 – 67, column 5 lines 1 – 46)

wherein the at least one mobile measuring apparatus signals a quality of the measuring signals generated by the at least one sensor (Column 5 lines 9 – 17).

3. The medical measuring device system as claimed in claim 1, wherein the at least one mobile measuring apparatus further includes:

an optical indicator which provides an optical indication to a wearer indicative of the quality of the measuring signal generated by the sensor (Column 5 lines 18 – 43).

4. The medical measuring system as claimed in claim 3, wherein the at least one mobile measuring apparatus includes:

a light with a plurality of colors, each color being associated with a predetermined range of the sensor measuring signal quality to indicate when the quality of the sensor measuring signals is in each correspondingly predetermined range (Column 5 lines 18 – 43).

5. The medical measuring system as claimed in claim 4, wherein the light has three different colors, a first of the colors being indicative of a poor quality of the measuring signals generated by the sensor, a second of the colors being indicative of a medium quality of the measuring signals and a third of the colors being indicative of a high quality of the measuring signals (Column 5 lines 18 – 43).

6. The medical measuring system as claimed in claim 1, wherein the at least one mobile measuring apparatus signals the quality of the measuring signals automatically (Column 5 lines 18 – 43).

7. The medical measuring system as claimed in claim 6, wherein the at least one mobile measuring apparatus signals the quality of the measuring signals when the sensor is placed on another measuring site of a patient wearing the mobile measuring apparatus (Column 5 lines 18 – 43).

8. The medical measuring system as claimed in claim 1, wherein the at least one mobile measuring apparatus signals the quality of the measuring signals when a substantial change in the quality of the measuring signals is detected (Column 5 lines 9 – 43).

9. The medical measuring system as claimed in claim 1, wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals on demand (Column 5 lines 9 – 43).

10. The medical measuring system as claimed in claim 1, wherein the at least one mobile measuring apparatus signals the quality of the measuring signals in response to the quality of the measurement signal from at least one of the sensors falling below a predetermined signal quality (Column 5 lines 9 – 43).

11. The medical measuring system as claimed in claim 1, wherein the at least one measuring apparatus signals the quality of the measuring signals on the basis of an evaluation of one or more perfusion index, transmission level, interference level, and signal form (Column 5 lines 9 – 43).

12. The medical measuring system as claimed in claim 1, wherein the at least one sensor includes a pulsoximeter, an ECG recorder or ultrasound measuring head (Column 4 lines 32 – 46).

13. A medical measuring system comprising:

at least one measuring apparatus including:

one or more sensors designed to contact a portion of a patient to measure physiological patient data and transfer the measured physiological patient data to the measuring apparatus to be wirelessly transmitted (Figure 1 item 10, column 4 lines 66 – 67, column 5 lines 1 – 46); and

a measurement display apparatus that displays physiological patient data generated by the one or more sensors, the physiological patent data being wirelessly transferred from the at least one measuring apparatus (Figure 1 item 16);

wherein the at least one measuring apparatus includes a means for determining a quality of the measured physiological patient data (Column 5 lines 9 – 17); and

a means for signaling the quality of the measured physiological patient data (Column 5 lines 9 – 17).

15. The medical measuring device of claim 13, wherein the means for signaling the signal quality includes a light mounted on the measuring apparatus, which light generates an optical signal (Column 5 lines 18 – 43).

16. A medical measurement device comprising at least one measurement apparatus including a means for wirelessly transmitting medical data to a remote site, one or more sensors for measuring medical data, and a means for determining and a means for signaling a signal quality of the medical data (Column 4 lines 66 – 67, column 5 lines 1 – 46).

18. The medical measuring device of claim 16, wherein the means for signaling the signal quality generates an optical signal (Column 5 lines 18 – 43).

19. The medical measuring device of claim 16, in combination with a measurement display device at the remote site which measurement display device receives the wirelessly transmitted medical data and displays at least a portion of the received medical data (Figure 1 item 10, column 4 lines 66 – 67, column 5 lines 1 – 46).

20. The medical measuring device of claim 16, wherein the quality signal is humanly perceivable only locally adjacent the medical measurement apparatus and not at the remote site (Column 5 lines 9 – 17).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mortara et al. U.S. Patent No. 5,704,351 in view of Schwarzberg U.S. Patent No. 5,730,143.

In regard to claims 2, 14, and 17, Mortara et al., hereinafter Mortara, discloses indicating the signal strength of a measured signal to a user via a visual indicator (Mortara column 5 lines 18 – 43). Mortara fails to disclose alternatively indicating signal strength acoustically. However Schwarzberg a reference in an analogous art discloses notifying the patient via light or sound (Schwarzberg column 3 lines 63 – 67, column 4 lines 1 – 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to interchange the visual indicator of Mortara with an acoustic indicator, since Schwarzberg discloses the two as interchangeable and both suitable for notifying the patient of important information.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kai Rajan whose telephone number is (571)272-3077. The examiner can normally be reached on Monday - Friday 9:00AM to 4:00PM.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kai Rajan/
Examiner, Art Unit 3769

/Michael C. Astorino/
Primary Examiner, Art Unit 3769

November 26, 2008